
IN THE UNITED STATES DISTRICT COURT
CENTRAL DIVISION, DISTRICT OF UTAH

<p>BOBBY LEIBFRIED and PAMELA WARD : LEIBFRIED,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">vs.</p> <p>THE PEP BOYS MANNY, MOE AND JACK OF CALIFORNIA,</p> <p style="text-align: center;">Defendants.</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>Civil No. 2:11-CV-00071</p> <p>REPORT & RECOMMENDATION</p> <p>DISTRICT COURT JUDGE DEE BENSON</p> <p>MAGISTRATE JUDGE DUSTIN DEAD</p>
--	---	--

This matter is currently before this Court on the following pending motions: (1) Defendant The Pep Boys Manny, Moe and Jack of California's (Defendant) Motion For Summary Judgment¹ (2) Defendant's Motion To Compel Discovery and For Sanctions² and (3) Defendant's Motion To Dismiss For Failure To Appear and Appoint Counsel.³ Plaintiffs Bobby and Pamela Leibfried (Plaintiffs) have failed to respond to any of the currently pending motions.

¹Document Number 17.

²Document Number 19.

³Document Number 21.

On December 13, 2011, the district court issued an order granting Plaintiffs' attorney's motion to withdraw as counsel.⁴ Thereafter, on January 31, 2011, the District Court issued an amended order, clarifying its prior ruling and requiring Plaintiffs to enter a notice of pro se appearance or an entry of appearance of counsel within twenty one days.⁵ The District Court's amended order clarified that "[i]f Plaintiffs fail to enter a notice of appearance within that time, their Complaint may be subject to dismissal pursuant to Rule 16(f)(1) of the Federal Rule of Civil Procedure."⁶

Nearly eight months have passed since the district court issued its order requiring Plaintiffs to appear pro se or appoint counsel, and Plaintiffs have failed to do either. Furthermore, during that time period Defendant has filed discovery requests, a motion for summary judgment and a motion to compel. Each of which the Plaintiffs have failed to respond to.

Accordingly, pursuant to local rule DUCiv R. 83-1.4(c)(3)⁷ and the District Court's amended order, the court hereby recommends that Defendant's motion to dismiss the case be granted and the remaining motions be deemed moot. Copies of the foregoing report and recommendation are being mailed to all parties who are hereby notified of their right to object. Any objection must be filed within 14 days after being served with a

⁴Document 13.

⁵Document 16.

⁶Id.

⁷DUCiv R. 83-1.4(c)(3) states "Within twenty-one (21) days after entry of the order, or within the time otherwise required by the court, (i) any individual whose attorney has withdrawn shall file a notice of pro se appearance or new counsel shall file an appearance on that party's behalf."

copy.⁸ Failure to object may constitute a waiver of objections upon subsequent review.

DATED this 10th day of October, 2012

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Dustin Pead', is written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke extending to the right.

Dustin Pead
U.S. Magistrate Judge

⁸ See Fed. R. Civ. P. 72(b)(2).